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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

WILDEARTH GUARDIANS and
MONTANA ENVIRONMENTAL
INFORMATION CENTER,

Plaintiffs,

vs.

RYAN ZINKE, et al.

Defendants,
and

SPRING CREEK COAL, LLC,

Intervenor-Defendant.

Case No. CV 17-80-BLG-SPW-TJC

**STANDING DECLARATION OF
STEVE GILBERT**

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I, Steve Gilbert, hereby state as follows:

1. I am a citizen of the United States and am over 18 years of age. I reside in Helena, Montana. I have been a Montana resident since 1967.

2. I am a member of the Montana Environmental Information Center (MEIC) and have been a member since the early 1980s. I currently serve as a member of MEIC's Board of Directors, a position I have held for about ten years. I was selected as the MEIC Community Activist of the Year in 2003, and in 2013 I received the Len and Sandy Sargent award for meritorious service. In 2017, I was recognized as MEIC's **Conservationist of the Year**.

3. I am a longtime environmental advocate. I have served as a member of the Board of Directors of several conservation organizations, including the Northern Plains Resource Council, Great Old Broads for Wilderness, and the Western Lands Project. I have testified before the Montana State Legislature and the U.S. Senate on water and air quality, soils, aquatic, and wildlife habitat issues related to coal mining and hard-rock mining.

4. I worked as a biological consultant in Montana for 43 years. For 25 of those years, I was part owner and president of an environmental consulting company that specialized in wildlife, aquatics/fisheries, soils, vegetation, forestry, range, and

hydrology. I am now retired but continue to do some biological consulting on a pro bono basis.

5. In 2012 I retired from the Montana Department of Fish, Wildlife and Parks, where I served as the state non-motorized trails specialist. I helped administer the federally funded Recreational Trails Program and inspected projects funded by the program throughout the state, including wilderness and backcountry areas.

6. I am an avid outdoorsman and have spent decades enjoying recreational opportunities, including fishing, hunting, paddling, and hiking, throughout the state of Montana. I have worked and/or played in all 56 Montana counties and every mountain range, wilderness area, and national park in the state.

7. For 20 years, I was a professional licensed Montana fly fishing guide. During those years I guided on nearly every trout stream of note in Montana. I was an Orvis endorsed guide for many years and National Guide of the Year in 1990. I am no longer a professional guide, but still enjoy fishing on my own in streams and rivers around the state.

8. I am a hunter and enjoy hunting elk, deer, waterfowl, and upland game birds each fall with my two adult children. Together we bring in enough game to fill our freezers with freshly caught meat and birds to eat during the fall and winter.

9. I have spent many years working and recreating in the area immediately surrounding the Spring Creek Mine. The mine site itself is closed to the public and

therefore inaccessible, but the mine is visible from the road. Coal trains from the mine are also visible from the road and the reservoir. I am intimately familiar with the area surrounding the mine and its vegetation, soils, fish, and wildlife.

10. From 1979 to 1986, I did wildlife, fisheries, aquatics, and vegetation studies on the CX Ranch for approximately one week each month. I could see the Spring Creek Mine when I did the wildlife surveys, and I drove to the mine several times during this time period. The CX Ranch is located on Squirrel Creek, one drainage south of Spring Creek and the Spring Creek Mine. The CX Ranch was then owned by Consolidation Coal Company and is now owned by Cloud Peak Energy.

11. Since 1977, I have annually hunted upland birds, including sharp-tailed grouse and ring-necked pheasants, on the Rosebud Battlefield. The battlefield is located on Rosebud Creek, one drainage north of Spring Creek and the Spring Creek Mine. I hunt these upland birds every year and plan to continue this annual tradition into the foreseeable future for as long as I am able. However, the joy I experience while hunting in this area is diminished by my knowledge of the nearby Spring Creek Mine and its negative impacts on wildlife and their habitat, including the upland game birds that I enjoy hunting and observing in the area.

12. For many years, I have paddled a canoe and fished the Tongue River and Tongue River Reservoir from the Wyoming border to Ashland, Montana. Spring Creek is located in the same drainage basin as the Tongue River, and the Spring

Creek mine pits and associated infrastructure are adjacent to the Tongue River Reservoir. I fish for smallmouth bass, sauger, brown trout, and rainbow trout. I plan to continue fishing and canoeing in the Tongue River and Tongue River Reservoir into the foreseeable future for as long as I am able.

13. I plan to visit the upper Tongue River country this spring as I do every spring, to hunt turkeys on beautiful public ponderosa pine grasslands near the Spring Creek Mine that have not yet been destroyed by the hungry draglines. To reach the relatively pristine public lands where I might find a swaggering gobbler, I'll have to grit my teeth and shake my head in disgust as I pass (and perhaps get stopped at a crossing) by coal trains headed off somewhere to poison the air someone has to breathe. I'll stop along Tongue River below the dam to cast streamers for rainbow and brown trout and smallmouth bass. I'll be out of sight of coal trains and the brown haze that hangs over the Spring Creek Mine, but my enjoyment will be compromised by knowing that coal shovels are grinding away in the earth just over the hill.

14. Hunting, fishing, and other forms of outdoor recreation bring me aesthetic pleasure. That pleasure is diminished by my professional and personal knowledge that extractive industries, including the Spring Creek Mine, are operating nearby that degrade the natural environment and harm wildlife, vegetation, soils, water, air quality, and the climate. The Spring Creek Mine is a hideous scar upon the earth

that has caused great harm to the surrounding area and wildlife, which I cannot help thinking about every time I glimpse the mine or coal trains leaving the mine. Whatever reclamation is done after mining ceases can never undo the harm that has resulted from the mine. It makes me even more angry when I think about the fact that the huge quantity of coal that has been extracted from the Spring Creek Mine is being burned in power plants that spew great clouds of harmful pollution, including greenhouse gases that are contributing to climate change.

15. It angers and saddens me to see coal being transported by train from the mines in the area, including Spring Creek Mine, Decker East, and Decker West. It particularly disgusts me to see the trains leaving the Spring Creek Mine because I love that area and I know how much harm the mine has inflicted—and continues to inflict—on the surrounding landscape and its wild creatures. It's impossible not to think about, and feel angered by, the trains and their endless railcars heaped with coal when I visit the area around the Spring Creek Mine.

16. The Spring Creek coal trains and their legacy of pollution are impossible to avoid. The highway crosses the railroad tracks and you can get stuck waiting for a coal train to go by, which can take as long as 10-15 minutes because the trains are over a mile long. The railroad tracks parallel the highway in some places and you can see the trains going by as you drive along the highway. Coal dust blows off the railcars, which are uncovered, and gets into the air and water. The coal trains are

dirty and ugly. Every time I see one of those coal trains, it not only reminds me of the localized impacts of the mines, but also climate change, which is directly attributable to burning fossil fuels like coal.

17. I am deeply concerned about the impacts of climate change on our planet and on Montana in particular. Having lived in Montana for over 50 years, I have seen firsthand how rising temperatures are affecting the state and causing harm to our land, water, wildlife, and communities. These changes have negatively affected me personally, as well as my friends, family, and neighbors. For example, over the past several years Montana has experienced extensive wildfires that cause poor air quality. The wildfires are increasing in size and severity. At times the smoke and haze have been so severe that I could not recreate outside and was stuck indoors. The experience is mind numbing and choking. The wildfires not only make the air hard to breathe and harm human health, but also have negative impacts on the state's natural environment and wildlife, including deer, elk, pronghorn, and upland game birds that I have hunted for many years.

18. Climate change is also harming Montana's aquatic resources, which is a particular concern to me as a fisherman. Flows in the Tongue River, one of the places where I fish, are associated with snowpack in the Bighorn Mountains, which is declining due to warmer temperatures. Summers are noticeably longer and hotter than they used to be, and the temperatures keep going up. In dry years there is low

flow in the river, so it warms more quickly and has negative impacts on aquatic life, especially cold-water fish like trout.

19. I care deeply about Montana and its natural resources, and I am disappointed that the responsible state and federal regulatory agencies have not adequately analyzed the environmental impacts of coal mining operations such as Spring Creek Mine, let alone ensured that the mining is done in as environmentally responsible a manner as possible. I believe these agencies and the mining industry need to be held accountable to the law.

20. If the U.S. Office of Surface Mining Reclamation and Enforcement (OSMRE) is required to comply with the National Environmental Policy Act in its analysis for the Spring Creek Mine, the agency would be better able to address the impacts of coal mining and climate change. If OSMRE addresses these impacts and considers real alternatives that would keep greenhouse gas pollution out of the atmosphere, it could reduce the amount of emissions from federally permitted Montana coal. This would decrease the aesthetic, recreational, and other injuries I am experiencing from the Spring Creek Mine, coal trains, and climate change.

21. One of the many unfortunate effects of coal strip mining is that reclamation will never replace the damage caused by ripping into the earth. Once the first gouge is made there is no returning to premining conditions. The damage to the earth, to wildlife and aquatic habits and to my sense of well being is irreversible

and irreparable. There is no way to compensate for these losses by lame attempts to reclaim or by forfeiting reclamation bonds. No more ponderosa pine grasslands, rocky outcrops, and bunchgrass prairies. No more sharptailed grouse, pronghorn and mule deer. It's painful to know that these direct losses of habitat and the wildlife that depend on it are the starting point of a complex of cumulative negative effects including trains and tracks and ocean shipping lanes, coal dust, plumes of poisonous emissions at power plants, leaking ash ponds and climate change, to name a few. There is no way to compensate for these losses, nor to compensate me for my vastly compromised sense of enjoyment in outdoor recreation near the Spring Creek Mine.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct. 28 U.S.C. § 1746.

Dated this 6 day of April, 2018.



Steve Gilbert